**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
32510-701.201

First named inventor: Andrew J. Ritter

Application No.: 09/346,479

Art Unit: 1651

Filed: July 1, 1999

Examiner: Susan Coe

Title: METHOD FOR INCREASING LACTOSE TOLERANCE IN MAMMALS EXHIBITING LACTOSE INTOLERANCE

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282

The above-identified application became abandoned for failure to file a timely and proper reply to a  
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the  
expiration date of the period set for reply on the Office notice or action plus an extensions of time  
actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

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## 1. Petition fee

☒ Small entity-fee \$750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$\_\_\_ (37 CFR 1.17(m)).

## 2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in  
the form of Response to Final Office Action and RCE (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.  
☒ is enclosed herewith.

B. The issue fee of \$\_\_\_.

- ☐ has been paid previously on \_\_\_\_\_.  
☐ is enclosed herewith.

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This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the  
USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete,  
including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments  
on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent  
and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS  
ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

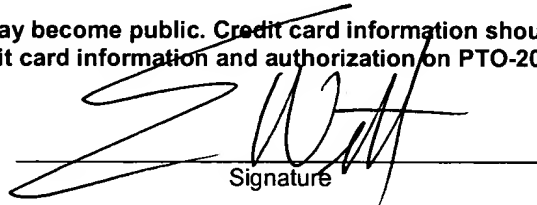
- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\_\_\_ for a small entity or \$\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**\*PLEASE SEE ATTACHED ADDITIONAL STATEMENT**

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

JULY 22, 2005  
Date

  
Signature

Telephone  
Number: 650-493-9300

Eric Witt  
Typed or printed name

650 Page Mill Road  
Address

Enclosures: ☒ Fee Payment Palo Alto, CA 94304  
Address

☒ Response to Final Office Action and RCE

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☒ Other: Transmittal

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## CERTIFICATE OF MAILING [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as Express Mail, EXPRESS MAIL LABEL NO.: EV 518 897 936 US in an envelope addressed to:

**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

7-22-05  
Date

  
Signature

Cathy Bachmann  
Type or printed name of person signing certificate

#### 4. ATTACHED ADDITIONAL STATEMENT

The above-referenced application went abandoned for failure to timely respond to the Office Action mailed November 29, 2001 (Paper Number 12).

The entire delay in filing the required response from the due date of the required response until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. Applicant was 15 years of age at the time the prosecution of the instant application was initiated. At the time of the Office Action of November 29, 2001, Applicant was representing himself and did not have the benefit of counsel. Due to Applicant's youth and lack of experience with, and knowledge of, patent laws and regulations, Applicant did not understand that the instant application would become abandoned for failure to respond to the Office Action. Applicant neither knew nor intended that the application would become abandoned. According to the U.S. Patent and Trademark Office's records, a Notice of Abandonment was mailed on June 19, 2002. To the best of his knowledge, Applicant did not receive this Notice of Abandonment; he had changed his address in the time period during which it should have been received, and it is possible that the Notice was not forwarded to his new address. Hence, at the time the Office Action of November 29, 2001, was mailed, and during the subsequent response period and abandonment, Applicant did not understand the strictness of the time limits for response, the inability to prosecute once the time limits were exceeded, or the finality of the time limits; nor was Applicant aware that the application had become abandoned, or that it would be expected to become abandoned.

Applicant did not receive notice as to these events and as to the possibility of reviving the application until approximately July 11, 2005. At that time, his present patent counsel informed him of the consequences of not responding to the Office Action, the abandonment of the application, and the availability of petition for revival. Applicant instituted the preparation of the present petition under 37 CFR 1.137 within one week of being informed of the consequences of abandonment and the possibility of revival.

Thus, the entire delay in filing the present petition was unintentional, and efforts to revive the instant application were instituted promptly upon Applicant becoming aware of this possibility. Applicant respectfully requests that the instant application be revived under 37 CFR 1.137(b).